

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

JOAN HARVEY,

Plaintiff,

-against-

DELTA AIR LINES, INC.

Defendant.

Civil Action No. 1:23-cv-02662-HG

**DECLARATION OF MICHAEL F. FLEMING IN SUPPORT OF
DEFENDANT DELTA AIR LINES INC.'S MOTION FOR SUMMARY JUDGMENT**

I, Michael F. Fleming, declare as follows:

1. I am an associate in the law firm Morgan, Lewis & Bockius LLP, attorneys of record for Defendant Delta Air Lines, Inc. ("Delta") in the above-captioned matter.
2. I am an attorney in good standing and admitted to practice in this Court.
3. I submit this declaration in support of Delta's Motion for Summary Judgment in the above-captioned matter.
4. Collectively attached hereto as Exhibit A are excerpts from the transcript of the deposition of Plaintiff, taken on October 25, 2023.
5. Collectively attached hereto as Exhibit B are excerpts from the transcript of the deposition of Peter Corrao, taken on November 3, 2023.
6. Collectively attached hereto as Exhibit C are excerpts from the transcript of the deposition of Lauren Harps, taken on October 30, 2023.
7. Collectively attached hereto as Exhibit D are excerpts from the transcript of the deposition of Judieth Passman, taken on November 2, 2023.

8. Collectively attached hereto as Exhibit E are excerpts from the transcript of the deposition of Krishadath Sooknanan, taken on November 6, 2023.

9. Collectively attached hereto as Exhibit F are excerpts from the transcript of the deposition of James Brimberry, taken on November 9, 2023.

10. Collectively attached hereto as Exhibit G are excerpts from the transcript of the deposition of David Gilmartin, taken on November 27, 2023.

11. Attached hereto as Exhibit H is a true and accurate copy of “Corporate Stats and Facts” page of Delta’s publicly-available website, <https://news.delta.com/corporate-stats-and-facts>, as that page existed on March 7, 2024.

12. Attached hereto as Exhibit I is a true and accurate copy of the Flight Attendant Job Description, produced in this Action as the document bearing bates stamp numbers Delta 001007–Delta 001008.

13. Attached hereto as Exhibit J is a true and accurate copy of The Way We Fly, produced in this Action as the document bearing bates stamp numbers Delta 000621–Delta 000652.

14. Attached hereto as Exhibit K is a true and accurate copy of Introduction to Delta’s In-Flight Services (“IFS”) Handbook, produced in this Action as the document bearing bates stamp number Delta 000959.

15. Attached hereto as Exhibit L is a true and accurate copy of Alcohol Misuse Prevention Program, produced in this Action as the document bearing bates stamp numbers Delta 000894–Delta 000910 (“Alcohol Policy”).

16. Attached hereto as Exhibit M is a true and accurate copy of Delta's EEO Policy, produced in this Action as the document bearing bates stamp numbers Delta 000600–Delta 000604.

17. Attached hereto as Exhibit N is a true and accurate copy of On-The-Job Injury Policy, produced in this Action as the document bearing bates stamp numbers Delta 001023–Delta 001028.

18. Attached collectively hereto as Exhibit O is a true and accurate copy of Delta's Purser Policy, produced in this Action as the document bearing bates stamp numbers Delta 001035–Delta 001047.

19. Attached hereto as Exhibit P is a true and accurate copy of Email from Plaintiff to E. Pardo, dated October 27, 2021, produced in this Action as the document bearing bates stamp numbers P00038–P00041.

20. Attached hereto as Exhibit Q is a true and accurate copy of Delta Captain Pete Corrao Statement, produced in this Action as the document bearing bates stamp numbers Delta 000157–Delta 000158.

21. Attached hereto as Exhibit R is a true and accurate copy of the Lauren Harps Statement, produced in this Action as the document bearing bates stamp numbers Delta 000159–Delta 000160.

22. Attached hereto as Exhibit S is a true and accurate copy of October 22, 2021 Suspension Meeting Summary, produced in this Action as the document bearing bates stamp numbers Delta 000151–Delta 000152.

23. Attached hereto as Exhibit T is a true and accurate copy of the Judieth Passman Statement, produced in this Action as the document bearing bates stamp number Delta 001086.

24. Attached hereto as Exhibit U is a true and accurate copy of October 20, 2021 Note to File, produced in this Action as the document bearing bates stamp numbers Delta 000154–Delta 000155.

25. Attached hereto as Exhibit V is a true and accurate copy of the Harvey October 22, 2021 Statement, produced in this Action as the document bearing bates stamp number Delta 000156.

26. Attached hereto as Exhibit W is a true and accurate copy of the SRS Statement prepared by J. Passman, produced in this Action as the document bearing bates stamp numbers Delta 001084–Delta 001085.

27. Attached hereto as Exhibit X is a true and accurate copy of the SRS Statement prepared by J. Harvey, produced in this Action as the document bearing bates stamp numbers Delta 001081–Delta 001084.

28. Attached hereto as Exhibit Y is a true and accurate copy of the October 22, 2021 Suspension Meeting Summary, produced in this Action as the document bearing bates stamp numbers Delta 000151–Delta 000152.

29. Attached hereto as Exhibit Z is a true and accurate copy of the Photograph of Purported Receipt from Kempinski Hotel, produced in this Action as the document bearing bates stamp number Delta 000153

30. Attached hereto as Exhibit AA is a true and accurate copy of the Photograph of Purported Statement from Pool Bar Waiter, produced in this Action as the document bearing bates stamp number Delta 000551.

31. Attached hereto as Exhibit BB is a true and accurate copy of the Kempinski Hotel Menu, produced in this Action as the document bearing bates stamp numbers Delta 000240–Delta 000245.

32. Attached hereto as Exhibit CC is a true and accurate copy of the Recommendation for Termination of Employment, dated October 22, 2021, produced in this Action as the document bearing bates stamp numbers Delta 000145–Delta 000147.

33. Attached hereto as Exhibit DD is a true and accurate copy of the Executive Summary, dated October 24, 2021, produced in this Action as the document bearing bates stamp numbers Delta 000148–Delta 000150.

34. Attached hereto as Exhibit EE is a true and accurate copy of the Email from Plaintiff to E. Pardo, dated October 27, 2021, produced in this Action as the document bearing bates stamp numbers P00038–P00041.

35. Attached hereto as Exhibit FF is a true and accurate copy of the Recommendation for Termination, dated October 28, 2021, produced in this Action as the document bearing bates stamp number Delta 000144.

36. Attached hereto as Exhibit GG is a true and accurate copy of the Letter from A. Altman to D. Gilmartin, dated November 17, 2021, produced in this Action as the document bearing bates stamp numbers Delta 000246–Delta 000248.

37. Attached hereto as Exhibit HH is a true and accurate copy of the Email exchange between E. Pardo, D. Gilmartin, and T. Jackson, dated November 17, 2021, produced in this Action as the document bearing bates stamp numbers Delta 000434–Delta 000437.

38. Attached hereto as Exhibit II is a true and accurate copy of an email exchange between Plaintiff, J. Ho, and R. Heillman, dated December 30, 2021, produced in this Action as the document bearing bates stamp numbers Delta 000363–Delta 000365.

39. Attached hereto as Exhibit JJ is a true and accurate copy of the Harvey EO Case Summary, produced in this Action as the document bearing bates stamp numbers Delta 000911–Delta 000915.

40. Attached hereto as Exhibit KK is a true and accurate copy of the Email from J. Brimberry, dated February 4, 2022 at 3:47 PM, produced in this Action as the document bearing bates stamp number Delta 000924.

41. Attached hereto as Exhibit LL is a true and accurate copy of the Helen Samson David Statement, produced in this Action as the document bearing bates stamp number Delta 000456.

42. Attached hereto as Exhibit MM is a true and accurate copy of the Harvey April 12, 2022 Appeal Letter, produced in this Action as the document bearing bates stamp numbers Delta 000938–Delta 000939.

43. Attached hereto as Exhibit NN is a true and accurate copy of the J. Harvey Email dated March 1, 2022 at 2:06 AM, produced in this Action as the document bearing bates stamp number Delta 000925.

44. Attached hereto as Exhibit OO is a true and accurate copy of the Flight Attendant Performance Development Chart, produced in this Action as the document bearing bates stamp numbers Delta 001062.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed in New York, New York on March 7, 2024.

/s/Michael F. Fleming
Michael F. Fleming